

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13075, of Ronald Kenneth McGutherie, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3104) to use the rear of the first and second floors of the subject premises as a beauty shop and office space respectively in an R-4 District at the premises 229 R Street, (rear), N.W. (Square 550, Lot 36).

HEARING DATE: December 12, 1979

DECISION DATE: January 9, 1980

FINDINGS OF FACT:

1. The application was scheduled initially for the public hearing of October 24, 1979. It was continued to the public hearing of December 12, 1979 since the applicant had not complied with Section 3.33 of the Supplemental Rules of Practice and Procedure before the BZA in that the subject property was never posted.
2. The subject property is located on the northeast corner of the intersection of 3rd and R Streets, N.W. just south of Florida Avenue, N.W. and is known as 229 R Street (rear). It is in an R-4 District.
3. The subject premises has a certificate of occupancy B-89763, dated June 14, 1974, for a grocery store on the first floor and a certificate of occupancy, A-18036, dated November 6, 1952, for a rooming house, second and third floors. The grocery store is not now in operation. The rooming house is functioning.
4. The subject lot is approximately 1,971 square feet in area and is improved with a structure which is three stories high on the R Street frontage and two stories high at the rear. The site is topographically flat and rectangular in shape.
5. The applicant proposes to use the rear of the second floor as a beauty shop and the rear of the first floor as offices for a construction company.
6. Immediately adjacent to the subject property on the north is a garage which is adjoined by a laundry at the corner of 3rd Street and Florida Avenue. On the east, along R Street are row dwellings. Across R Street is an Urban Renewal Housing Development. Across 3rd Street are two story row dwellings. Florida Avenue at this location is zoned C-2-A and there are a number of commercial uses including a beauty shop, TV repair shop, grocery store as well as residential uses.

7. The non-conforming grocery store use is a C-1 use. The proposed use, beauty salon and general office, are also C-1 uses.

8. The space at the rear of the premises proposed for the office use is presently vacant. It was formerly a garage storage facility plus one room. The second story rear is also vacant. It consists of two large rooms. There are separate entrances to the front and rear of the premises.

9. The applicant proposes to operate the grocery store and the proposed office of the construction company. He anticipates two or three office staff. The proposed beauty salon will have six or seven operators.

10. The applicant testified that he can accommodate five cars on his lot. He further testified that on-street parking is ample for the needs of the immediate neighborhood.

11. The Office of Planning and Development, by report dated October 19, 1979, recommended that the application be denied. It reported that at the present time, approximately one-quarter of the floor area of this structure is devoted to a non-conforming use. The second and third floors of the front portion of the structure are devoted to a rooming house use. Physically, it would appear that there is no compelling reason why the two-story structure at the rear, which fronts on 3rd Street, could not be used for residential purposes. The proximity of this structure to the commercial zoning along Florida Avenue is not a factor which would support the grant of this variance nor is the fact that the building houses an existing non-conforming use. It was the OPD's opinion that unusual or extraordinary conditions which would support the grant of a use variance are not present in this case. The Board concurs.

12. There was no opposition to the application. There was no letter on file in favor of the application.

13. At the public hearing, the Board requested that the applicant submit for the record the area dimensions of each of the rear stories. From those plans, the Board finds that the width of the rear portion of the building is twenty feet, while the width of the lot is approximately twenty-seven feet. There is thus insufficient space on the lot to provide any off-street parking spaces.

14. Advisory Neighborhood Commission - 5C made no recommendation on the application.

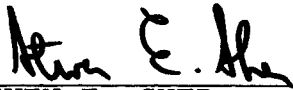
CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking a use variance, the granting of which requires a showing of a hardship that is inherent in the property itself. The Board found in finding No. 3 that the subject site is topographically flat and rectangular in shape and in finding No. 4 that the surrounding uses are basically residential. The Board also notes that there are separate entrances to the front and rear of the subject premises and that there is a certificate of occupancy for a rooming house for the front portion of the second and third floors. The Board concludes, based on these findings, that the subject premises could be used for a purpose for which the property is zoned and that there are no factors inherent in the property that would support the grant of a use variance. The Board further concludes that the variance could not be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, the application is DENIED.

VOTE: 5-0 (Walter B. Lewis, Connie Fortune, Connie Fortune, William F. McIntosh and Leonard L. McCants to DENY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: \_\_\_\_\_

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 7 APR 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."